Public Law 96-343
96th Congress

An Act

Sept. 8, 1980
[H.R. 5168]

To extend certain expiring provisions of law relating to personnel management of the Armed Forces, to provide a variable housing allowance for members of the uniformed services to reflect housing costs in different areas of the United States, to improve certain special and incentive pays for members of the uniformed services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Military Personnel and Compensation Amendments of 1980. 37 USC 101 note.

SECTION 1. This Act may be cited as the "Military Personnel and Compensation Amendments of 1980".

FLIGHT INCENTIVE PAY

SEC. 2. (a) Section 301 of title 37, United States Code, relating to hazardous duty pay, is amended—

(1) by striking out "(1), (2), or (3)" in subsection (b) and inserting in lieu thereof "(2) or (3)";

(2) by striking out "(b)" before "For the performance of" and inserting in lieu thereof "(2)"; and

(3) by inserting after subsection (a) the following:

"(b)(1) For the performance of the hazardous duty described in clause (1) of subsection (a) of this section, a member is entitled to monthly incentive pay as follows:

"ENLISTED MEMBERS

"Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	100	106	106	106	113	119	131
E-6	88	94	94	100	106	113	119
E-5	75	88	88	100	100	106	113
E-4	69	81	81	88	94	100	100
E-3	69	75	75	75	75	75	75
E-2	63	75	75	75	75	75	75
E-1	63	69	69	69	69	69	69
E-1 under 4 months	63	.....	.....	.....	.....	.....	.....
Aviation cadets	63	.....	.....	.....	.....	.....	.....

	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	131	131	131	131	131	131	131
E-6	119	125	125	125	125	125	125
E-5	119	119	119	119	119	119	119
E-4	100	100	100	100	100	100	100
E-3	75	75	75	75	75	75	75
E-2	75	75	75	75	75	75	75
E-1	69	69	69	69	69	69	69"

37 USC 301a.

(b)(1) The tables in clause (1) of section 301a(b) of such title, relating to aviation career incentive pay for officers, are amended to read as follows:

"Phase I

"Years of aviation service (including flight training) as an officer:	Monthly rate
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	306

"Phase II

"Years of service as an officer as computed under section 205:	
Over 18	$281
Over 20	256
Over 22	231
Over 24 but not over 25	206".

(2) The last sentence in such clause is amended by striking out "$160" and "$165" and inserting in lieu thereof "$200" and "$206", respectively.

(3) The table in clause (2) of such section is amended to read as follows:

"Years of aviation service as an officer:	Monthly rate
2 or less	$125
Over 2	138
Over 6	250".

Effective date. 37 USC 301 note.

(c) The amendments made by this section shall be effective with respect to incentive pay payable for months after August 1980.

CAREER SEA PAY FOR ENLISTED MEMBERS

SEC. 3. (a) Section 305a(b) of title 37, United States Code, relating to career sea pay, is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) of this section are as follows:

"Years of sea duty:	Monthly rate
Over 3	$29
Over 5	40
Over 7	52
Over 9	63
Over 10	75
Over 11	86
Over 12	115".

Repeal. 37 USC 305a.

(b) Section 804(a)(2) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 37 U.S.C. 305a note) is repealed.

Effective date. 37 USC 305a note.

(c) The amendments made by this section shall be effective with respect to special pay payable under section 305a of title 37, United States Code, for months after August 1980.

VARIABLE HOUSING ALLOWANCE

SEC. 4. (a)(1) Section 403(a) of title 37, United States Code, relating to basic allowance for quarters, is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end thereof the following new paragraph:

"(2)(A) A member of a uniformed service entitled to basic allowance for quarters is entitled to a variable housing allowance under this paragraph whenever assigned to duty in an area of the United States (other than Alaska or Hawaii) which is a high housing cost area with respect to such member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States is entitled to a variable housing allowance while serving such tour of duty for any period during which the member's dependents reside in an area of the United States which would qualify the member to receive a variable housing allowance under this paragraph if assigned to duty in that area.

"(B) The monthly amount of a variable housing allowance under this paragraph for any member is the difference between (i) the average monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member (as determined under regulations prescribed under subsection (j) of this section), and (ii) 115 percent of the amount of the basic allowance for quarters to which that member is entitled.

"(C) For the purposes of this paragraph, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the average monthly cost of housing in that area for members serving in the same pay grade as that member (as determined under regulations prescribed under subsection (j) of this section) exceeds 115 percent of the amount of the basic allowance for quarters of that member.".

(2) The heading of section 403 of such title is amended to read as follows: 37 USC 403.

"§ 403. Basic allowance for quarters; variable housing allowance".

(3) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"403. Basic allowance for quarters; variable housing allowance.".

(b) Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981. Effective date. 37 USC 403 note.

(c)(1) During fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under section 403 of title 37, United States Code, may be paid a variable housing allowance under this subsection whenever assigned to duty in an area of the United States (other than Alaska or Hawaii) which is a high housing cost area with respect to such member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States may be paid a variable housing allowance under this subsection while serving such tour of duty for any period during which the member's dependents reside in an area of the United States which would qualify the member to receive a variable housing allowance under this subsection if assigned to duty in that area. 37 USC 403 note.

(2) The monthly amount of a variable housing allowance under this subsection for any member may not exceed the difference between (A)

the average monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member (as determined under regulations prescribed under paragraph (4)), and (B) 115 percent of the amount of the basic allowance for quarters to which that member is entitled.

(3) For the purposes of this subsection, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the average monthly cost of housing in that area for members serving in the same pay grade as that member (as determined under regulations prescribed under paragraph (4)) exceeds 115 percent of the amount of the basic allowance for quarters of that member.

Regulations.

(4) Regulations shall be prescribed for the administration of this subsection in the same manner that regulations are prescribed under subsection (j) of section 403 of title 37, United States Code, for the administration of such section.

TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 5. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

(1) by striking out "that is not more than 7 cents a mile" in clause (1) and inserting in lieu thereof "per mile prescribed by the Secretaries concerned and"; and

(2) by striking out "of not more than 10 cents a mile" in clause (3) and inserting in lieu thereof "at a rate per mile prescribed by the Secretaries concerned and".

37 USC 411.

(b) Section 411(b) of such title, relating to travel and transportation allowances, is amended—

(1) by striking out "first-class transportation, including sleeping accommodations," in clause (1) and inserting in lieu thereof "common carrier transportation";

(2) by inserting "and designating areas as high cost areas" after "rates" in clause (2); and

(3) by striking out "first-class transportation" and all that follows in clause (3) and inserting in lieu thereof "transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances.".

Effective date.
37 USC 404 note.

(c) The amendments made by this section shall be effective with respect to travel and transportation performed after August 31, 1980.

STABILIZATION OF PAY AND ALLOWANCES OF COMMISSIONED OFFICERS WHO PREVIOUSLY SERVED AS ENLISTED MEMBERS OR WARRANT OFFICERS

SEC. 6. (a)(1) Section 907 of title 37, United States Code, relating to the pay and allowances of enlisted members appointed as officers, is amended to read as follows:

"§ 907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized

"(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as an officer; or

"(2) the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

"(b) A warrant officer who accepts an appointment as a commissioned officer in a pay grade above W-4 shall, for service as such a commissioned officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as such a commissioned officer;

"(2) the pay and allowances to which he would be entitled if he were in the last warrant officer grade he held before his appointment as such a commissioned officer; or

"(3) in the case of an officer who was formerly an enlisted member, the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

"(c) For the purposes of this section—

"(1) the pay and allowances of a grade formerly held by an officer include—

"(A) subject to subsection (d) of this section, special and incentive pays under chapter 5 of this title; and

"(B) subject to subsection (e) of this section, allowances under chapter 7 of this title; and

"(2) the rates of pay and allowances of a grade which an officer formerly held are those to which the officer would have been entitled had he remained in that grade and continued to receive the increases in pay and allowances authorized for that grade, as otherwise provided in this title.

"(d) In determining the amount of the pay and allowances of a grade formerly held by an officer, incentive pay for hazardous duty under section 301 of this title, special pay for diving duty under section 304 of this title, for duty at certain places under section 305 of this title, and for sea duty under section 305a of this title, and proficiency pay under section 307 of this title may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for that pay and would otherwise be eligible to receive that pay in his former grade. 37 USC 301. 37 USC 304. 37 USC 305a, *ante*, p. 1124. 37 USC 307.

"(e) The clothing allowance under section 418 of this title may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer if the officer is entitled to a uniform allowance under section 415 of this title.". 37 USC 418. 37 USC 415.

(2) The table of sections at the beginning of chapter 17 of such title is amended by striking out the item relating to section 907 and inserting in lieu thereof the following: 37 USC 907.

"907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized.".

(b) Section 203 of such title, relating to rates of pay for members of the uniformed services, is amended by adding at the end thereof the following new subsection: 37 USC 203.

"(d) The basic pay of commissioned officers who are in pay grades O-1, O-2, and O-3 and who are credited with over four years' active service as warrant officers shall be computed in the same manner as the basic pay of commissioned officers in the same pay grades who have been credited with over four years' active service as enlisted members.".

(c) The amendments made by this section shall be effective with respect to periods for which pay and allowances are payable which begin after August 31, 1980. Effective date. 37 USC 907 note.

INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Effective date.
37 USC 402 note.

SEC. 7. Effective September 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act (as prescribed by the President under section 1009 of such title), are increased by 10 percent.

37 USC 1009.

EXPANSION OF AUTHORITY TO MAKE ADVANCE PAYMENTS

SEC. 8. Subsection (a) of section 1006 of title 37, United States Code, relating to advance payments, is amended to read as follows:

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be paid in advance—

"(1) not more than three months' pay of such member upon such member's change of permanent station; or

"(2) the amount of an allotment made from such member's pay to a dependent if such member is assigned or scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than sixty days before the scheduled date of the assignment of such member to such duty.".

AMENDMENTS TO MAKE CERTAIN RETIREMENT PROVISIONS RELATING TO REGULAR ENLISTED MEMBERS OF THE ARMY AND AIR FORCE APPLICABLE TO RESERVE ENLISTED MEMBERS

SEC. 9. (a)(1) Section 3914 of title 10, United States Code, relating to the retirement of regular enlisted members, is amended to read as follows:

"§ 3914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Army Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years.".

10 USC 3925.

(2) Section 3925 of such title, relating to the computation of years of service of enlisted members of the Army in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "**regular**" in the catchline.

(3) The table of sections at the beginning of chapter 367 of such title is amended by striking out "regular" in the items relating to sections 3914 and 3925.

10 USC 3914, 3925.

(b)(1) Section 8914 of such title is amended to read as follows:

10 USC 8914.

"§ 8914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force who has at least 20, but less than 30, years of service computed under section 8925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Air Force Reserve. A member retired under

this section shall perform such active duty as may be prescribed by law until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserve, equals 30 years.". 10 USC 8925.

(2) Section 8925 of such title, relating to the computation of years of service of enlisted members of the Air Force in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "**regular**" in the catchline.

(3) The table of sections at the beginning of chapter 867 of such title is amended by striking out "regular" in the items relating to sections 8914 and 8925.

10 USC 8914, 8925.

(c) The amendments made by this section shall apply with respect to retired pay payable for months beginning after the date of the enactment of this Act.

Effective date. 10 USC 3914 note.

EXTENSION OF CERTAIN PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

SEC. 10. (a) Public Law 93-397 (10 U.S.C. 8202 note) is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1982".

(b) Subsections (a) and (b) of section 2 of Public Law 95-377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982". 10 USC 5707 note.

(c)(1) Section 1201(3) of title 10, United States Code, is amended—

(A) by striking out "or" at the end of subclause (B)(ii);

(B) by striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof "; or"; and

(C) by adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended— 10 USC 1203.

(A) by striking out "or" at the end of item (i); and

(B) by striking out the semicolon at the end of item (ii) and inserting in lieu thereof ", or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

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(d) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above, except that before October 1, 1982, such a board may consist of nine officers serving in the grade of major general or above.".

(e) Sections 5787c(b)(2) and 5787d(g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

ESTABLISHMENT OF NAVY CHAPLAIN CORPS AS A STAFF CORPS OF THE NAVY

SEC. 11. (a) Chapter 513 of title 10, United States Code, relating to Bureaus of the Navy, is amended by striking out section 5142 and inserting in lieu thereof the following:

10 USC 5142.

"§ 5142. Chaplain Corps and Chief of Chaplains

"(a) The Chaplain Corps is a staff corps of the Navy and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

Appointment.

"(b) There is in the executive part of the Department of the Navy the office of the Chief of Chaplains of the Navy. The Chief of Chaplains shall be appointed by the President, by and with the advice and consent of the Senate, from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty, who are not on the retired list, and who have served on active duty in the Chaplain Corps for at least eight years.

Term of office.

"(c) An officer appointed as the Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.

"(d)(1) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Navy and by law.

"(2) The Chief of Chaplains shall, with respect to all duties pertaining to the procurement, distribution, and support of personnel of the Chaplain Corps, report to and be supported by the Chief of Naval Personnel.

"(e) The Chief of Chaplains of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

10 USC 5133.

10 USC 5142a.

"§ 5142a. Deputy Chief of Chaplains

"The Secretary of the Navy may detail as the Deputy Chief of Chaplains an officer of the Chaplain Corps in the grade of commander or above who is on active duty, who is not on the retired list, and who has served on active duty in the Chaplain Corps for at least eight years.".

10 USC 5142.

(b) The table of sections at the beginning of chapter 513 of such title is amended by striking out the item relating to section 5142 and inserting in lieu thereof the following:

"5142. Chaplain Corps and Chief of Chaplains.
"5142a. Deputy Chief of Chaplains.".

DEPUTY JUDGE ADVOCATE GENERAL, AIR FORCE

SEC. 12. (a) Section 8072 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) There is a Deputy Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Deputy Judge Advocate General is two years, but may be sooner terminated or extended by the President. An officer appointed as Deputy Judge Advocate General shall be appointed in a regular grade to be determined by the Secretary of Defense. Appointment. Term of office.

"(2) When there is a vacancy in the office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases. Vacancy.

"(3) When paragraph (2) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Air Force, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.".

(b)(1) The heading of such section is amended to read as follows: 10 USC 8072.

"§ 8072. Judge Advocate General, Deputy Judge Advocate General: appointment; duties".

(2) The item relating to such section in the table of sections at the beginning of chapter 807 of such title is amended to read as follows:

"8072. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.".

AUTHORITY TO RETIRE IN A HIGHER GRADE RESERVE OFFICERS WHO HAVE SERVED IN SPECIAL POSITIONS

SEC. 13. (a)(1) Section 3962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) Section 3962(b) of such title is amended by striking out "Regular". 10 USC 3962

(3) The heading of section 3962 of such title is amended to read as follows:

"§ 3962. Higher grade for service in special positions".

(4) The item relating to section 3962 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3962. Higher grade for service in special positions.".

(b)(1) Section 8962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) The heading of section 8962 of such title is amended to read as follows: 10 USC 8962.

"§ 8962. Higher grade for service in special positions".

(3) The item relating to section 8962 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"3962. Higher grade for service in special positions.".

Appointment to retired grade. 10 USC 3962 note.

(c)(1) The President may, by and with the advice and consent of the Senate, appoint any commissioned officer of a reserve component of the Armed Forces who retired after December 31, 1967, to the retired grade in which such officer could have been retired had such officer retired on or after the date of the enactment of this Act.

Applicability.

(2) The retired pay of any retired officer who is appointed to a higher retired grade under paragraph (1) shall be recalculated as if such officer had retired in the grade to which appointed, but any increase in such retired pay by virtue of such appointment or this subsection shall be effective only with respect to periods beginning on or after the date on which such appointment is made.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-440 (Comm. on Armed Services) and No. 96-1233 (Comm. of Conference).
SENATE REPORT No. 96-424 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 24, 25, considered and passed House.
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June 17, House agreed to Senate amendments with amendments.
Aug. 20, Senate agreed to conference report.
Aug. 26, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 37 (1980): Sept. 8, Presidential statement.